



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCT -5 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Anthony Sinapi

Warwick, RI 02886

RE: MUR 6805

Dear Mr. Sinapi:

On September 30, 2015, the Federal Election Commission reviewed the allegations in the complaint you filed on April 7, 2014, and found that on the basis of the information provided in the complaint, and information provided by the respondent, there is no reason to believe that Patricia L. Morgan violated 52 U.S.C. § 30122, a provision of the Federal Election Campaign Act of 1971, as amended, or 11 C.F.R. § 110.4 of the Commission's regulations. The Commission also decided to dismiss the allegations that contributions made by Patricia L. Morgan and reported under the name Patricia Mulligan violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4. Accordingly, the Commission closed the file in this matter on September 30, 2015.


Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's finding, is enclosed.

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The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8) (formerly 2 U.S.C. § 437g(a)(8)).

Sincerely,

Daniel A. Petalas
Acting General Counsel



BY: Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure
Factual and Legal Analysis

1-800-424-6000

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Patricia L. Morgan
a.k.a. Patricia L. Mulligan

MUR 6805

I. INTRODUCTION

This matter was generated by a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations by Patricia Morgan a.k.a. Patricia L. Mulligan. It was scored as a low-rated matter under the Enforcement Priority System, by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Complainant Anthony Sinapi ("Sinapi") alleges that Patricia Morgan violated the Act by making contributions to federal candidates and committees using both a false name and the name of another. Compl. at 1. According to the Complaint and exhibits,¹ from 2007-2012 Morgan, whose name prior to her marriage to Robert Morgan² was Patricia Mulligan, made eight contributions totaling \$4,700 using her current name (Patricia Morgan) and six contributions totaling \$2,500 using her prior name (Patricia Mulligan).³ Compl. at 1-2. These contributions allegedly violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4.

¹ The attached exhibits appear to be pages from FEC disclosure reports reflecting the contributions made by Morgan along with documents related to Morgan's divorce.

² The couple divorced in March, 2000, but Morgan retained her married name. See Exhibit E.

³ In the Amended May Monthly Report of Disbursements and Receipts, the John McCain 2008, Inc. committee listed two identical contributions, both on April 8, 2008, one under the name of Patricia Morgan and the other under the name of Patricia Mulligan. See Amended May Monthly Report at 5224, 5293 (filed on July 11, 2013). It is unclear whether the campaign received one check bearing the erroneous Mulligan designation from

1 In her Response, Morgan acknowledges that until “recently” her checks carried her prior
2 name rather than her current name. Resp. at 1. She states that her use of electronic bill paying
3 left her with a number of old checks, and that her bank, Citizens Bank, still uses her prior name
4 on her electronic account despite her efforts to correct the information. *Id.* Morgan states that
5 she assumed that those treasurers who filed reports using her prior name were under the
6 impression it was necessary to use the name given on the check rather than the individual’s legal
7 name, if different.⁴ See Resp. at 1.

8 **A. Legal Analysis**

9 Under the Act, it is unlawful for any individual to make contributions in the name of
10 another person or to knowingly permit such a use of the individual’s own name in order to
11 violate this provision.⁵ See 52 U.S.C. § 30122; see also 11 C.F.R. § 110.4(b)(1)(i-iii).

12 It appears that the contributions being reported under different names were the combined
13 result of a mistake by both Morgan’s bank and her continued use of older physical checks, which
14 “until recently” bore her prior name. Resp. at 1. Due to the nature of the exhibits in both the
15 complaint and response, it is not entirely clear which contributions were made with physical
16 checks and which, if any, were supplied electronically by her bank. According to the disclosure

Citizens Bank or whether two separate checks were submitted for identical amounts, but bearing different names. It should be noted that even combined, the two entries only total \$500 and do not violate individual contributions limits even when paired with Morgan’s other contributions.

⁴ Attached to the Response are scans of bank printouts, which bear her prior name, and two sets of checks: a series of physical checks with her current name, and electronic checks with her prior name. See *id.* at 2-3.

⁵ A fictitious or “false name contribution is a *direct* contribution from *A* to a campaign, where *A* represents that the contribution is from another person who may be real or fictional.” See *United States v. O’Donnell*, 608 F.3d 546, 549 (9th Cir. 2010) (emphasis in original); see also 11 C.F.R. § 110.4(b)(1)(i), (b)(2)(ii).

1 reports attached to the Complaint, Morgan did not appear to exceed the contribution limits⁶ to
2 any one candidate or committee (either separately or combined under both names).⁷ Since
3 “Patricia L. Morgan” was the respondent’s legal name at the time the contributions at issue were
4 made, the Commission finds no reason to believe that the contributions reported under the name
5 Patricia Morgan violated 52 U.S.C. § 30122 and 11 C.F.R § 110.4.

6 The Commission notes that the most recent federal contribution alleged to have been
7 made using the name “Patricia Mulligan” was reported by the Republican National Committee
8 as received on July 7, 2010.⁸ This contribution falls outside the statute of limitations, as do all
9 other contributions reported under the name “Patricia Mulligan.” *See FEC v. Williams*, 104
10 F.3d 237 (9th Cir. 1996), *cert. denied*, 522 U.S. 1015 (1997) (the general federal five-year
11 statute of limitations, 28 U.S.C. § 2462, applies to FEC civil enforcement actions that seek the
12 imposition of civil penalties). Therefore, the Commission exercises its prosecutorial discretion
13 and dismisses the allegations that contributions reported under the name Patricia Mulligan
14 violated 52 U.S.C. § 30122 and 11 C.F.R § 110.4. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

⁶ The yearly contribution limits for individuals to candidates and national party committees were as follows: 2007-08 (\$2,300/\$28,500); 2009-10 (\$2,400/\$30,400); 2011-12 (\$2,500/\$30,800).

⁷ The total amounts by year contributed to federal candidates or committees (under both names combined) are as follows: \$750 in 2007; \$2,450 in 2008; \$500 in 2009; \$1,250 in 2010; \$0 in 2011; \$2,250 in 2012. *See* Exhibits A and B.

⁸ *See* Republican National Committee 2010 Amended August Monthly Report of Receipts and Disbursements at 2061 (filed on June 10, 2011).